

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

United States District Court	District	6 th
Name (under which you were convicted): <i>Adam Lee Simmons</i>	Docket or Case No.: <i>1:21-10087-06-STA</i>	
Place of Confinement: <i>Coleman USP 1 F.C.C</i>	Prisoner No.: <i>81329-509</i>	
UNITED STATES OF AMERICA	Movant (include name under which you were convicted) <i>v. Adam Simmons</i>	

MOTION

1. (a) Name and location of court that entered the judgment of conviction you are challenging: United States District Court for the Western District of Tennessee Eastern Division
 (b) Criminal docket or case number (if you know): 1:21-10087-06-STA
2. (a) Date of the judgment of conviction (if you know): Dec 13 2022
 (b) Date of sentencing: Dec -13 -2022
3. Length of sentence: 151 months
4. Nature of crime (all counts): Aiding and Abetting; Distribution and Possession with Intent
5. (a) What was your plea? (Check one)

(1) Not guilty (2) Guilty (3) Nolo contendere (no contest)

 (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? NA
6. If you went to trial, what kind of trial did you have? (Check one) Jury Judge only

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes No

8. Did you appeal from the judgment of conviction? Yes No

9. If you did appeal, answer the following:

(a) Name of court: United States Court of Appeals

(b) Docket or case number (if you know): 22-6132

(c) Result: Anders brief

(d) Date of result (if you know): NA

(e) Citation to the case (if you know): NA

(f) Grounds raised: NA

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(g) Did you file a petition for certiorari in the United States Supreme Court? Yes No

If "Yes," answer the following:

(1) Docket or case number (if you know): NA

(2) Result: NA

(3) Date of result (if you know): NA

(4) Citation to the case (if you know): N/A

(5) Grounds raised: N/A

Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: WA

(2) Results

(2) Docket or case number (if you know): 11-1

(3) Date of filing (if you know): 1/1/14

(4) Nature of the proceeding: **NA**

(5) Grounds raised: NA

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes No

(7) Result: *NA*

(8) Date of result (if you know): NA

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: NA

(2) Docket or case number (if you know): *NA*

(3) Date of filing (if you know): WA

(4) Nature of the proceeding: WA

(5) Grounds raised: *NA*

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes No

(7) Result: NA

(8) Date of result (if you know): NA

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes No

(2) Second petition: Yes No

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: *My lawyer was not in contact and signed an Anders brief*

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Ineffective assistance of counsel

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

My lawyer assured me that I did not qualify for career offender enhancements and told me before my plea agreement was signed that I was only looking at a 3 to 6 year sentence

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: *Waiting decision on court & lack of communication with lawyer due to being in the SHU*

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: *NA*

Name and location of the court where the motion or petition was filed: *NA*

Docket or case number (if you know): NA

Date of the court's decision: NA

Result (attach a copy of the court's opinion or order, if available): NA

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: NA

Docket or case number (if you know): NA

Date of the court's decision: NA

Result (attach a copy of the court's opinion or order, if available): NA

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: Was not aware of the argument

GROUND TWO: The career offender predicates of attempted to manufacture Meth do not qualify

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The career offender statute does not state inchoate crimes such as attempted or conspiracy crimes do not qualify

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

My lawyer filled a Anders brief

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: NA

Name and location of the court where the motion or petition was filed: NA

Docket or case number (if you know): NA

Date of the court's decision: NA

Result (attach a copy of the court's opinion or order, if available): NA

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: NA

Docket or case number (if you know): NA

Date of the court's decision: NA

Result (attach a copy of the court's opinion or order, if available): NA

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: NA

GROUND THREE: My primary charge Aiding and Abetting; DIST. Meth does not qualify for career offender

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Aiding and Abetting is not a listed crime under the career offender enhancement. Aiding and Abetting is a inchoate crime and can not trigger a career enhancement

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: My lawyer filled a Anders brief

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: NA

Name and location of the court where the motion or petition was filed: NA

Docket or case number (if you know): NA

Date of the court's decision: NA

Result (attach a copy of the court's opinion or order, if available): NA

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: NA

Docket or case number (if you know): NA

Date of the court's decision: NA

Result (attach a copy of the court's opinion or order, if available): NA

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: NA

GROUND FOUR: Bad Faith in Government

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

My lawyer assured me a light sentence due to the fact of my cooperation and assistance on a dead corpse I found & turned in

(b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: My lawyer filled a Anders Brief

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: NA

Name and location of the court where the motion or petition was filed: NA

Docket or case number (if you know): NA

Date of the court's decision: NA

Result (attach a copy of the court's opinion or order, if available): NA

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: NA

Docket or case number (if you know): NA

Date of the court's decision: NA

Result (attach a copy of the court's opinion or order, if available): NA

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: My lawyer filled a Anders brief

13. Is there any ground in this motion that you have not previously presented in some federal court?

If so, which ground or grounds have not been presented, and state your reasons for not presenting them: I'm in fear for my life due to my cooperation with the government I have already been hit once and had to have staples put in back of my head on top of being sent to outside ER and suffering from a conculsion

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. NA

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Juni S. Ganguli address unknown

(b) At arraignment and plea: same

(c) At trial: same

(d) At sentencing: same

(e) On appeal: Anne Harvey 77 W. Elmwood Dr. Suite 204
Centerville, Ohio 45459

(f) In any post-conviction proceeding: NA

(g) On appeal from any ruling against you in a post-conviction proceeding: NA

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes No

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: NA

(b) Give the date the other sentence was imposed: NA

(c) Give the length of the other sentence: NA

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes No

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief:

Vacate, Set Aside or Correct Sentence

or any other relief to which movant may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct
and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on
Apr. 1, 30 2024 (month, date, year).

Executed (signed) on _____ (date).

Adam Simmons
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not
signing this motion.

